The supreme court of Nebraska has answered questions without the authority of a constitutional provision or even of a statute. The auditor of public accounts asked for an opinion in regard to the conduct of his office and got it. *In re Babcock,* 21 Neb., 500. In the case of *In re School Fund,* 15 Neb., 684, the court advised the school board as to an investment of funds. *In re G. A. Brown, Reporter,* 15 Neb., 688, is a case in which the reporter of the decisions of the Supreme Court sought information of the court as to the price he should pay for the binding of the decisions in volumes. The desired information was given.

It is evident that this extra-judicial function is very limited in its use both in this country and in England. There the King no longer seeks advisory opinions of the courts and when it is considered that the court of last resort of that country is composed of members of the House of Lords it is not strange that that body should seek the opinions of the court. But even under these conditions opinions are not asked very often. In this country the courts give the opinions of this nature in but nine of the states and seven of these are controlled by constitutional provision. It is a duty that is ordinarily placed upon the attorney general's office. Even in the states where this function is exercised the courts are most reluctant to give an opinion and avoid doing so as often as possible. One of the greatest objections to placing this duty upon the courts is that expressed by the Minnesota court when it said that the theory of the independence of the three departments of government was destroyed when this extra burden was placed upon the courts.

STATES—ACTION BY TAXPAYER—INJUNCTION—AUTHORITY.

In the absence of a statute, a taxpayer, according to *Long v. Johnson,* 127 N. Y. Sup., 756, having no rights aside from those possessed by taxpayers as a whole, may not sue to restrain a State commission appointed by the governor to construct a prison plant, though the commission has not been economical, has shown favoritism, and also has made errors in judgment in adopting plans and advertising for bids.

Courts of equity cannot by injunction control the exercise of political, judicial or legislative functions by public officers, al-

though the passage of a void ordinance may sometimes be enjoined, nor will they thus control the exercise of discretion by public officers and authorities, *Jones v. No. Wilkesboro,* 150 N. C., 646, except to prevent a manifest abuse of discretion and to require that such discretion be exercised according to law. *Cooke v. Iverson,* 108 Minn., 388. But equity will not restrain acts of authorized officers for mere irregularities or for mere mistakes in judgment. *Long v. Shepherd,* .... Ala., ... Nor can it be invoked to declare in advance that proposed or threatened acts will, if performed, be illegal and void. *Tiulcer v. O'Dell,* 134 App. Div., 272. "The true test in all such cases is as to the nature of the specific act in question, rather than as to the general functions and duties of the officer. If the act which it is sought to enjoin is executive instead of ministerial in its character, or if it involves the exercise of judgment and discretion upon the part of the officer, as distinguished from a merely ministerial duty, its performance will not be prevented by injunction." 2 *High on Injunctions,* Sec. 1326.

One of the most frequent occasions for the intervention of equity is to protect taxpayers from an unreasonable increase of their burdens by the waste or illegal disposition of public funds. *Flulcer v. Union Point,* 132 Ga., 568. And generally official acts will not be enjoined until some injury to the complainant is at least threatened and a taxpayer seeking the injunction must show a personal interest which will be affected by the threatened act. *Lagoo v. Hill,* 143 Ill. App., 523.

Where a state board, of which the governor was a member, was acting under the authority of an unconstitutional law, any person who sustained injury thereby and whose remedy at law was incomplete or inadequate, could enjoin the board from such action. *Board of Liquidation v. McComb,* 92 U. S., 531. But the court will not interfere by injunction to arrest the action of public officers in the performance of a public duty unless it clearly appears that it is in violation of the constitution or without legal warrant. The business affairs of a municipality are committed to the corporate authorities and the courts will not interfere at the suit of taxpayers, except in a clear case of mismanagement or fraud, by restraining such public officers by injunction from making contracts. *McMaster v. Mayor, etc., of Waynesboro,* 122 Ga., 231.

Unless it is clearly shown that a state board of education has transcended its powers in providing for a central depository for text books, it will not be restrained at the suit of an injured individual taxpayer, where his interest is small and the plans of the board have been carried almost to completion. *Duncan v. Hayward,* 74 So. Car., 560. Taxpayers of a municipal corporation are proper parties to invoke the preventive aid of equity in restraint of illegal action on the part of the municipality or its officers and it is held that a citizen and taxpayer has such an interest in the subject matter as to entitle him to an injunction to prevent the authorities of a municipal corporation from incurring indebtedness in excess of the maximum fixed by the constitution of the State as the limit beyond which municipal corporations' indebtedness shall not be incurred. *City of Springfield v. Edwards,* 84 Ill., 626.

An individual taxpayer cannot enjoin a state prison superintendent from supplying his family out of state funds for prison purposes, where the secretary of state receives the accounts of all prison expenditures and audits them, and no money is expended except on warrants issued by him. And even if a superintendent of the penitentiary may be receiving the labor of prisoners for his own profit and is liable for malfeasance in office, yet this is no ground for equitable interference at the suit of a taxpayer. *Sears v. James,* 47 Oreg., 50. But where the fund has already been wasted or paid out, the action to recover it back must be brought by the state or municipality to which it belonged. *Brownfield v. Hauser,* 30 Oregon, 534.

Actual and material injury, not fanciful or theoretical or merely possible, must be shown as the necessary or probable result of the action sought to be restrained. "The complainant who seeks an injunction must be able to specify some particular act, the performance of which will damnify him, and it is such an act alone that he can restrain. This court has no power to examine an act of the legislature generally and declare it unconstitutional. A suitor who calls upon a court of chancery to arrest the performance of a duty imposed by the legislature upon a public officer, must show conclusively not only that the act about to be performed is unconstitutional, but also that it will inflict a direct injury upon him." *Gibbs v. Green,* 54 Miss., 592.

Equity will not entertain a suit for injunction where there is a full and complete remedy at law. Where a remedy for any particular wrong or injury has been provided by statute, the general rule is that no relief in equity can be afforded in such a case by injunction. *Weber v. Timlin,* 37 Minn., 274. It seems that this general doctrine is applicable, although the provisions of the statute may conflict with the notions of natural justice entertained by a court of equity. *Glenn v. Fowler,* 8 Gill. & J., 340. The rule is subject to a few exceptions. It has been held that the fact that a statutory method of procedure exists does not take away the right of a court of equity to interfere by injunction for the prevention of a multiplicity of suits where the circumstances render such interposition proper. *Bishop v. Rosenbaum,* 58 Miss., 84. Under the *English Judicature Act* of 1873, Sec. 25, Subsection 8, which enables the court to grant an injunction in all cases in which it appears just and convenient to the court, it would seem that the existence of a statutory remedy would be no obstacle in the way of granting an injunction. *Cooper v. Whittingham,* 15 Chan. Div., 501.

The adequacy or inadequacy of a remedy at law for the protection of the rights of one entitled upon any ground to invoke the powers of a Federal Court, is not to be conclusively determined by the statutes of the particular state in which suit may be brought. One who is entitled to sue in the Federal Circuit Court may invoke its jurisdiction in equity whenever the established principles and rules of equity permit such a suit in that court; and he cannot be deprived of that right by reason of his being allowed to sue at law in a state court on the same cause of action. *Smyth v. Ames,* 169 U. S., 466.

In the case at hand, since the taxpayer had no special grievance arising from the acts of the state commission, beyond what all other taxpayers had, and since he sustained no actual injury, he cannot proceed in equity to restrain the actions of the commission, and for a public wrong redress must be sought only through the state or its officcers and not by an individual.

THE RULE THAT CROSS BILLS AND ORIGINAL BILLS MUST BE GERMANE AS APPLIED TO INJUNCTIONS.

Equity is never content to do justice in halves, but rather seeks to right the wrongs of all parties whenever those wrongs relate to